

1 that, that David Smith had said he thought maybe some things
2 were inaccurate and that's why there were changes, so I wanted
3 to be able to rely on the document.

4 JUDGE SIPPEL: I, I, I hear what you're saying and I
5 have a recollection of that myself but, as I said, the
6 reliability of these two exhibits, in my judgement, are
7 unquestionable. So, you know, I'll leave that, the rest of
8 it, up to the counsel and the parties to put it in shape in
9 the proposed findings. That's all -- is that all we have for
10 this witness?

11 MR. GREENEBAUM: It is, Your Honor.

12 JUDGE SIPPEL: Redirect?

13 MR. LEADER: One question.

14 JUDGE SIPPEL: Well, the one question.

15 REDIRECT EXAMINATION

16 BY MR LEADER:

17 Q Mr. Smith -- Dr. Smith, if the Four Jacks
18 application for Channel 2 at Baltimore, Maryland is granted,
19 will you continue with your limited dental practice?

20 A No.

21 MR. LEADER: Okay, no further questions, Your Honor.

22 JUDGE SIPPEL: Anything on that? No? All right,
23 well, bingo, we're on schedule better than any railroad in
24 this country. It's 12 noon. I have -- I'm going to take 2 or
25 3 minutes more to just instruct on proposed findings. The,

1 the transcript, we have 10 days delivery on the transcripts so
2 I've counted 10 days from today would bring delivery of the
3 last volume on November the 26th.

4 MS. SCHMELTZER: Are we off the record?

5 JUDGE SIPPEL: No, we're on the record.

6 MS. SCHMELTZER: I mean, you may be a little
7 optimistic on that. Sometimes they come on time, sometimes
8 they don't. You know, it depends on --

9 JUDGE SIPPEL: Well, it's in their contract, and
10 I'm, I'm, I'm basing it on that. Well, let me give you these
11 dates off the record and then we'll come back on.

12 (Whereupon, a brief recess was taken.)

13 JUDGE SIPPEL: These are the dates that were
14 announced off the record: corrections to transcript by the
15 17th of December -- I didn't -- my preference would be that it
16 be done by, by -- it be done jointly to the extent that's
17 feasible, but if it can't be done jointly then you can file
18 them separately, or you can file segments separately that
19 can't be agreed to. The record is closed as of today for all
20 purposes except for purposes of making those corrections, but
21 for purposes after those corrections are made, the record will
22 be closed on the 20th of December for all purposes, and I --
23 except as I had indicated when we talked about the SEC
24 filings, if there's another SEC filing that's substantially of
25 impact on the information that we've been handling in this

1 case, a motion to reopen the record can be filed and, you
2 know, I, I will certainly be generous in granting that if I
3 think that it's meritorious. Proposed findings will come in
4 on the 14th of January, and reply findings will be coming in
5 on the 31st of January. The 14th is a Friday, the 31st is a
6 Monday. I, I have some, just some housekeeping instructions.
7 On the Exhibit R letters that will be primarily referred to in
8 the proposed findings of, of Scripps Howard, and, and will be,
9 of course, re-- I'm sure replied to by, by Four Jacks, only,
10 only letters which have non-entertainment subject matter can
11 be the -- can be urged as far as findings are concerned, and
12 I, I want that portion of the letter that identifies the
13 relevant subject matter quoted in, in what's presented. I
14 want to -- I'd like it to be done in a, initially, in a chart
15 form. That is, indicate the, the date of the letter, who the
16 author was, and some kind of a bullet reference to what the,
17 what the key subject matter is. I, I want -- I'd like that up
18 front in one paragraph or one section, and then after that you
19 can write on each of these letters on a paragraph-by-paragraph
20 basis if you care to in terms of the significance of it, but I
21 would like to have a frame of reference that ties right into
22 the, into the relevance. References to Scripps Howard
23 exhibits, they must include the volume, the tab, and the SH
24 page number. I -- what I want to avoid is -- and I don't --
25 I'm not suggesting that you do this, but I want to avoid

1 having a citation just to a volume and a tab and then have to
2 go through the tab to find the, the authority. The party
3 shall not use the -- this is with respect to Scripps Howard
4 but the parties -- by limitation it goes to all the parties.
5 "There shall be no use of the 1992 capital budget in findings
6 in Tab O," because that's clearly not relevant. "And Four
7 J" -- again, this is, this is clear but I want to make it
8 abundantly clear, "Four J may not seek any credit for the
9 civic involvement, that is, to any civic involvement credit,
10 with respect to those areas that were the subject of the
11 motion to strike." And if, if those areas -- if that
12 information is cited in proposed findings or reply findings,
13 there must be a specific disclaimer by Four Jacks that it is
14 not -- that, that you are not seeking any civic involvement,
15 and that instruction is because I just, I, I just feel a
16 little bit, a little bit ill at ease having a record go up
17 with that information in there in findings and not have it
18 very clearly specified. I'm not so much concerned about the
19 Review Board or the Commission, but the, the Court of Appeals.
20 It, it, it has the potential for some confusion, so I'm going
21 to just be a little -- I'm going to be, I'm going to be very
22 careful in terms of, of, of how I monitor it at this level,
23 and I don't think there's anything there that anybody has
24 disagreed with up until now. That's it. Dr. Smith, you're
25 excused as a witness.

1 MR. SMITH: Thank you.

2 JUDGE SIPPEL: You and your brothers are free to
3 discuss any and all aspects of this case.

4 MR. SMITH: Thank you, sir.

5 JUDGE SIPPEL: And we are -- this case then is, is,
6 is concluded, and I, I want to commend counsel on both sides
7 for presenting what I think was a, was a complicated record in
8 a very efficient way. As I said, we're right on schedule.

9 MR. GREENEBAUM: We have one question, Your Honor.

10 JUDGE SIPPEL: Yes, sir.

11 MR. GREENEBAUM: I'm not sure we can physically
12 comply with the Scripps Howard page numbers on all exhibits
13 because the later ones don't have it.

14 JUDGE SIPPEL: It's the -- well, all right, but, but
15 my, my instruction, then, only, only applies as to those that
16 were, that were marked with the SH designation in the three
17 volumes and --

18 MR. GREENEBAUM: Okay then --

19 JUDGE SIPPEL: -- and I will -- that you can comply
20 with.

21 MR. GREENEBAUM: Yeah, we can do that.

22 JUDGE SIPPEL: Yeah.

23 MR. GREENEBAUM: I just want to make sure that --

24 JUDGE SIPPEL: It's a good, it's a good point. I
25 will make it cle-- I, I will get a -- there will be an order

1 issued. I will issue an order in a day or so spelling all
2 this out again, so -- but that's it then. We are -- the,
3 the -- subject to what I have said about reopening, the record
4 is closed in this case. Thank you.

5 (Whereupon, at 12:10 p.m. on November 16, 1993 the
6 hearing was adjourned.)
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CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

APPLICATIONS OF SCRIPPS HOWARD BROADCASTING COMPANY

Name AND FOUR JACKS BROADCASTING, INC.

MM DOCKET NO. 93-94

Docket No.

WASHINGTON, D.C.

Place

NOVEMBER 16, 1993

Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 1279 through 1383, inclusive, are the true, accurate and complete transcript prepared from the reporting by MARYKAE FLEISHMAN in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

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